

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D30880  
Y/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - March 31, 2011

PETER B. SKELOS, J.P.  
ARIEL E. BELEN  
PLUMMER E. LOTT  
JEFFREY A. COHEN, JJ.

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2010-08565

DECISION & ORDER

In the Matter of Destiny H. (Anonymous).  
Westchester County Department of Social Services,  
appellant; Valerie B. (Anonymous), respondent.

(Docket No. N-7236-08)

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Robert F. Meehan, County Attorney, White Plains, N.Y. (Eileen Campbell O'Brien of counsel), for appellant.

Kenneth Lyle Bunting, White Plains, N.Y., for respondent.

Steven N. Ranellone, White Plains, N.Y., attorney for the child.

In a child neglect proceeding pursuant to Family Court Act article 10, the petitioner appeals from an order of the Family Court, Westchester County (Edwards, J.), entered July 20, 2010, which, after a fact-finding hearing, denied the petition and dismissed the proceeding.

ORDERED that the order is affirmed, with costs.

The Family Court failed to state on the record the facts which it deemed essential to its determination to dismiss the petition (*see* Family Ct Act § 1051[c]; *Matter of Jose L. I.*, 46 NY2d 1024, 1025-1026; *cf. Matter of Jodi S.*, 179 AD2d 653). However, remittal is not necessary because the record is sufficient for this Court to conduct an independent review of the evidence (*see Matter of Jose L. I.*, 46 NY2d at 1026; *Matter of Leon G.*, 7 AD3d 524; *cf. Matter of Austin v Austin*, 254 AD2d 703).

April 19, 2011

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Upon our independent review of the evidence, we discern no basis to disturb the Family Court's ultimate determination that the allegations of neglect were not proven by a preponderance of the evidence (*see* Family Ct Act § 1046[b][i]; *Nicholson v Scoppetta*, 3 NY3d 357, 368, 371; *Matter of Tammie Z.*, 66 NY2d 1, 3). Contrary to the petitioner's contention, the credible evidence did not establish that the mother failed to exercise a minimum degree of care in providing the child with proper supervision (*see Matter of Charles N.*, 83 AD2d 947; *cf. Matter of Antonio NN.*, 28 AD3d 826; *Matter of James HH.*, 234 AD2d 783; *Matter of Eric M.*, 90 AD2d 717). Accordingly, the Family Court properly denied the petition and dismissed the proceeding.

SKELOS, J.P., BELEN, LOTT and COHEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court